

Committee on Banking and Insurance

CS/HB 95 — Charitable Contributions

by Regulatory Affairs Committee and Rep. Holder and others (CS/SB 102 by Banking and Insurance Committee and Senator Detert)

The bill defines “charitable contribution” consistent with the definition in the Internal Revenue Code (IRC), if the contribution is cash or a financial instrument defined in the IRC. The bill also defines “qualified religious or charitable entity or organization” consistent with the definition in the IRC.

The bill provides a statutory defense to a “clawback” action for a qualified religious or charitable entity or organization that demonstrates that the transfer was received in “good faith” when the transfer was received beyond 2 years from the commencement of an action under the Florida Uniform Fraudulent Transfer Act (FUFTA), the filing of a bankruptcy petition, or the commencement of an insolvency action. The bill, however, provides that a charitable contribution from a natural person is a fraudulent transfer if it was received within 2 years of the commencement of an action under FUFTA, the filing of a bankruptcy petition, or the commencement of an insolvency action. The bill provides an exception that such a transfer from a natural person within the 2 years is not fraudulent if the transfer was consistent with the practices of the debtor; or the transfer was received in good faith and the contribution did not exceed 15 percent of the gross income of the debtor.

If approved by the Governor, these provisions take effect on July 1, 2013.

Vote: Senate 35-2; House 114-0